

Remarks

Claims 9-20 are pending in the subject application. Claims 12 and 13 have been amended to better clarify that which is being claimed. Support for new claim 32 is found throughout the application, and particularly at pages 14 and 15 and Figure 2. Upon entry of the foregoing amendments and new claim, claims 9-20 and 32 will be before the Examiner for consideration.

The Examiner has asked that Applicants clarify what priority date should be used for examination purposes of the pending claims. The Examiner has indicated that he has assigned 6/19/2000 as the priority date. Applicants confirm that this is the appropriate priority date to use.

Questions from Examiner:

1. Is the claimed device sufficiently specific for eosinophils where a high concentration of neutrophils (or lymphocytes) in the presence of infection would not then indicate the presence of eosinophils? Clinically, an allergic rhinitis condition is indicated by the presence of eosinophils. A showing of moderate to high eosinophil counts in addition to indicators of bacterial sinusitis would suggest that the patient is experiencing both allergic rhinitis and an infection.
2. What would the effect of a chronic fungal sinusitis have upon the device? This would give an indication similar to a bacterial sinusitis.
3. The Examiner comments that "No enablement is seen for the claimed device in distinguishing for tears in the case of ocular inflammation of unknown origin or feces in the case of colonic symptoms of unknown origin." Any effect that an ocular infection might have on the claimed device would be addressed by clinical observations. If a patient shows symptoms of an eye infection, which is generating a "runny nose" based on tear drainage, the clinician would treat the ocular infection first. This would be separate from the diagnosis of a nasal or upper respiratory condition, and in all likelihood, would be conducted first before determining a nasal or upper respiratory

condition. Applicants do not understand the Examiner's comment regarding feces. But for an extreme case of "brown-nosing", Applicants do not anticipate the presence of feces in nasal secretions.

Claims 12 and 13 are rejected under 35 USC § 112, second paragraph, as being indefinite. Claims 12 and 13 have been amended to better clarify that which is being claimed. Applicants assert that the amendments to claims 12 and 13 obviate this rejection. Reconsideration is requested.

The title of the invention has been amended above. The new title is more clearly indicative of the invention to which the claims are directed.

The Abstract of the Disclosure has been amended above. The new abstract is more pertinent to the invention currently claimed.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Timothy H. Van Dyke, Applicants' Attorney at 407-926-7726 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

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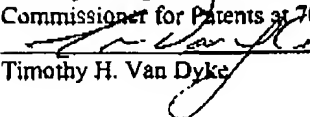
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I hereby certify that this correspondence is being facsimile transmitted to:
Commissioner for Patents at 703-872-9306 on 2/12/2004.


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